

RAJASTHAN HIGH COURT



सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

S.B. Criminal Revision Petition No. 930/2008

Sabir Khan S/o Nasirdeen, R/o Lordiya P.S. Phalodi, District Jodhpur.

-----Petitioner

Versus

State Of Rajasthan

-----Respondent

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|                   |   |                           |
|-------------------|---|---------------------------|
| For Petitioner(s) | : | Mr. D.L.R.Vyas            |
| For Respondent(s) | : | Mr. S.S. Rathore, Dy.G.A. |

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**15/07/2025**

1. The Petitioner has made challenge to the judgment of conviction and order of sentence dated 05.02.2007, passed by the learned Addl. Chief Judicial Magistrate, Pokran in Criminal Regular Case No.262/2003, whereby he was convicted and sentenced to suffer imprisonment in following terms:-

|                          |                                                                                    |
|--------------------------|------------------------------------------------------------------------------------|
| Punishable under Section | Sentence, Fine and default sentence                                                |
| Section 279 IPC          | Six month's RI, fine of Rs.500/- and in default to further undergo 7 days SI       |
| Section 337 IPC          | Six month's RI, fine of Rs.500/- and in default to further undergo 7 days SI       |
| Section 304-A IPC        | One year's RI, fine of Rs.2,000/- and in default to further undergo one month's SI |

A challenge is also made to the judgment dated 29.08.2008, passed by the learned Sessions Judge, Jaisalmer in Criminal Appeal No.03/2007, whereby the appeal filed by the petitioner was dismissed.

2. By the aforesaid judgment, the learned trial Court had convicted the petitioner for offences under Sections 279, 337 and 304A of the Indian Penal Code, 1860. The maximum sentence imposed upon the petitioner was one year's simple imprisonment under Section 304A IPC, coupled with a fine of ₹2,000/-; in default of payment of fine, the petitioner was directed to undergo an additional one month's simple imprisonment.

2. Learned counsel for the petitioner, at the very outset, submits that he does not press the present revision petition insofar as it pertains to the finding of conviction. The challenge is confined only to the quantum of sentence. He further submits that the occurrence in question dates back to the year 2003 and the petitioner has already undergone incarceration for a period of approximately 10 days. It is contended that no fruitful purpose would be served by sending the petitioner back to serve the remainder of the sentence, especially considering the passage of time, the nature of the offence, and the petitioner's antecedents. It is, therefore, prayed that a lenient view be taken and the sentence awarded by the learned trial Court be suitably reduced to the period already undergone.

4. I have heard the learned counsel for the petitioner as well as the learned Public Prosecutor representing the State. I have also perused the impugned orders and the materials available on record.

5. So far as the conviction of the petitioner is concerned, in view of the fair concession made by the learned counsel, and upon a

perusal of the record, this Court finds no infirmity in the concurrent findings of fact recorded by the courts below. There appears to be no patent illegality or perversity in the appreciation of evidence warranting interference in the conclusion as to guilt. Consequently, the conviction of the petitioner under Sections 279, 337 and 304A IPC, as recorded by the learned trial Court and affirmed by the learned Appellate Court, is hereby upheld and maintained.

6. Coming now to the quantum of sentence, it is not disputed that the incident in question occurred in the year 2003 and the petitioner has remained in judicial custody for a considerable duration during the course of trial and post-conviction—approximately 10 days. Additionally, it is brought to the notice of the Court that the petitioner is now aged and is a person of limited financial means. He has suffered the ordeal of a prolonged litigation extending over two decades, thereby undergoing immense mental agony and social distress.

7. In the considered opinion of this Court, having regard to the mitigating circumstances, including the age and socio-economic status of the petitioner, the length of the pendency of proceedings, the fact that he has already undergone part of the custodial sentence, and more particularly the principles enunciated by the Hon'ble Supreme Court in ***Haripada Das v. State of West Bengal, (1998) 9 SCC 678***, and ***Alister Anthony Pareira v. State of Maharashtra, (2012) 2 SCC 648***, the ends of justice

would be sufficiently met if the sentence of imprisonment is reduced to the period already undergone by the petitioner.

8. Accordingly, while maintaining the conviction of the petitioner under Sections 279, 337 and 304A IPC, as recorded by the learned Addl. Chief Judicial Magistrate, Pokran, Jaisalmer in Criminal Original Case No.262/2003, and affirmed by the learned Sessions Judge, Jaisalmer in Criminal Appeal No.03/2007, the sentence imposed upon the petitioner is hereby modified. It is ordered that the sentence of imprisonment shall stand reduced to the period already undergone by the petitioner. However, the fine imposed shall remain intact. In the event of non-payment of fine, the petitioner shall be liable to undergo the default sentence as originally awarded.

9. The revision petition is, therefore, partly allowed to the extent indicated above.

10. Let a copy of this order be transmitted to the concerned trial Court forthwith for necessary compliance.

11. Pending applications, if any, stand disposed of accordingly.

**(FARJAND ALI),J**